


February 10, 2015

TO: Deputy Directors, Das, Bas, Wardens, SOs, and Division/Branch Policy Coordinators


FROM: Shelley Nobriga, LCO/Policy Coordinator 

SUBJECT: COR.14.03: OFFENDER MARRIAGES
EFFECTIVE FEBRUARY 9, 2015

The Corrections Division policy, COR.14.03: Offender Marriages has been updated to reflect the changes to the Hawaii Revised Statutes, Chapter 572: Marriage, the Department of Health rules related to the processing of a marriage application, and the PSD's Settlement Agreement on the subject dated January 30, 2013.

The policy acknowledges the presumption based on the Settlement Agreement and includes a policy statement that "there may exist a security concern and legitimate penological interest in prohibiting offenders from marrying other offenders, staff, volunteers, and contractors."

If you have any questions, please call or email me.

	DEPARTMENT OF PUBLIC SAFETY		EFFECTIVE DATE: February 9, 2015	POLICY NO.: COR.14.13
	CORRECTIONS ADMINISTRATION POLICY AND PROCEDURES		SUPERSEDES (Policy No. & Date): COR.14.13, 6/8/2011	
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1.0 PURPOSE

To provide guidelines within the Department of Public Safety (PSD) Corrections Division regarding offender marriages.

2.0 REFERENCES

Hawaii Revised Statutes (HRS), Chapter 572: Marriage.

Director's Directive dated February 6, 2013, related to the Settlement Agreement in United States District Court, District of Hawaii, Civil No. CV 12-00259 SOM-BMK dated January 30, 2013.

3.0 POLICY

PSD recognizes that an offender has a right to enter into a marriage; however it is not an absolute right and is balanced against security concerns and/or the good government of the facility, staff, and other offenders, or for the protection of the public. There may exist a security concern and legitimate penological interest in prohibiting offenders from marrying other offenders, staff, volunteers, and contractors.

4.0 PROCEDURES

- .1 Any person detained in a PSD correctional facility, who desires to be married while incarcerated, must submit a written request to the Warden of the facility where the offender is detained through the offender's case manager.
- .2 The request must detail how the marriage ceremony will take place and provide proof that all statutory and legal requirements have been completed as required by the State of Hawaii, Department of Health and Hawaii Revised Statutes Chapter 572: Marriage.
- .3 All expenses related to all aspects of the marriage and ceremony, such as but not limited to, fees and cost for licensing and for the performing official, shall be the responsibility of the offender or their intended spouse prior to the ceremony.
- .4 Any Warden receiving a request from an offender to marry shall provide a recommendation and confirmation that all requirements as referenced above

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have been met. The Warden shall submit the request and recommendation to the Institutions Division Administrator (IDA) for final approval. There is a presumption that the request should be approved, unless the Warden finds and documents that the following criteria (a-c) impacts the recommendation:

- a. Whether or not a legal restriction to marriage exists, such as but not limited to the offender is currently married, lack of divorce verification, or there is a current and verified court order prohibiting contact or harassment, including but not limited to a Temporary Restraining Order, Restraining Order, Injunction Against Harassment, or Protective Order prohibiting contact.
 - b. Whether or not the proposed marriage presents a threat to the security and/or the good government of the facility, staff, other offenders, or to the protection of the public or for any other legitimate penological interest.
 - c. Whether a threat to the security and/or the good government of the facility may require the prohibition of a marriage between offenders, who have been committed to the custody and care of the Director of PSD.
- .5 In Hawaii, the parties to be married must secure a license to marry by appearing personally before an agent authorized by the State of Hawaii to grant marriage licenses. A list of approved agents is available on the Department of Health's website.
 - .6 In Hawaii, the marriage ceremony must be performed by a person or society, licensed to perform or solemnize marriages in the State of Hawaii. A list of persons authorized to solemnize a marriage is available on the Department of Health's website.
 - .7 In Hawaii, the parties to be married and the person or society performing the marriage ceremony must all be physically present at the same place and time for the marriage.
 - .8 Any offender detained in a correctional facility contracted by PSD, who wishes to be married while in that correctional facility must submit a written request to marry addressed to the Mainland/Contract Branch Unit Administrator, who will then forward the request to the IDA with the required recommendation acknowledging that all requirements as referenced above have been met.
 - a. The request must address compliance with all the statutory and legal requirements for marriage in the State in which the offender is detained have

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been complied with. Also, that all requirements for the PSD contractor's correctional facility have been complied with.

- b. All expenses related to all aspects of the marriage and ceremony, such as but not limited to, fees and cost for licensing and for the performing official, shall be the responsibility of the offender or their intended spouse prior to the ceremony.
- .9 If the marriage request is approved by the IDA, the Warden shall allow the marriage ceremony to take place as defined by departmental guidelines and the institutional security and/or programmatic requirements.

5.0 APPEAL PROCESS

- .1 The administrative process to appeal a denial of an offender's marriage request by the IDA shall be initiated by the offender submitting an appeal letter to the Director of PSD.
- .2 The letter shall explain how the provisions and/or concerns addressed in Section 4.0 have been met or are not applicable to the offender's marriage request.
- .3 The Director's decision will be considered PSD's final and ultimate recourse under the administrative appeals process.

6.0 SCOPE

This policy applies to all PSD correctional facilities and correctional facilities contracted by PSD.

APPROVAL RECOMMENDED:


Deputy Director for Corrections

2/9/15
Date

APPROVED:


Director

2/9/15
Date